

ASSEMBLY BILL NO. 96—ASSEMBLYWOMAN WEBER

FEBRUARY 13, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning criminal procedure. (BDR 14-994)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; providing for the release of presentence or general investigation reports to certain providers of health care; extending the maximum period of probation for certain sex offenders; revising provisions concerning the location for prosecuting a violation of a condition imposed pursuant to a program of lifetime supervision; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill expands the list of entities to whom the Division of Parole and Probation of the Department of Public Safety must disclose the content of a report of a presentence or a general investigation to include providers of health care approved by the Division to provide treatment to the defendant. (NRS 176.156)

Under existing law, the period of probation or suspension of a sentence may not be more than 5 years for a felony. (NRS 176A.500) **Section 2** of this bill extends that period to not more than 10 years for certain sexual offenses.

Under existing law, for the purpose of prosecuting a violation of a condition imposed upon a person pursuant to a program of lifetime supervision, the violation is deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision is located. (NRS 213.1243) **Section 3** of this bill revises this so that if the acts or conduct constituting the violation took place in this State, the violation must be prosecuted in the county in which the violation occurred.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176.156 is hereby amended to read as follows:
176.156 1. The Division shall disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of:

(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division.

(b) Any general investigation made pursuant to NRS 176.151.

↪ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations.

2. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.

3. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the mental health of:

(a) A sex offender as defined in NRS 213.107; or

(b) An offender who has been determined to be mentally ill.

4. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the State Gaming Control Board for the limited purpose of performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.

5. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a provider of health care approved by the Division to provide treatment to the defendant for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the treatment of the offender.

6. Except for the disclosures required by subsections 1 to ~~4~~, inclusive, a report of a presentence investigation or general



1 investigation and the sources of information for such a report are
2 confidential and must not be made a part of any public record.

3 **Sec. 2.** NRS 176A.500 is hereby amended to read as follows:

4 176A.500 1. The period of probation or suspension of
5 sentence may be indeterminate or may be fixed by the court and
6 may at any time be extended or terminated by the court, but the
7 period, including any extensions thereof, must not be more than:

8 (a) Three years for a:

9 (1) Gross misdemeanor; or

10 (2) Suspension of sentence pursuant to NRS 176A.260 or
11 453.3363; ~~for~~

12 (b) ~~Five~~ *Except as otherwise provided by paragraph (c), 5*
13 years for a felony ~~H~~ ; or

14 *(c) Ten years for any sexual offense as defined in*
15 *NRS 176.0931.*

16 2. At any time during probation or suspension of sentence, the
17 court may issue a warrant for violating any of the conditions of
18 probation or suspension of sentence and cause the defendant to be
19 arrested. Except for the purpose of giving a dishonorable discharge
20 from probation, and except as otherwise provided in this subsection,
21 the time during which a warrant for violating any of the conditions
22 of probation is in effect is not part of the period of probation. If the
23 warrant is cancelled or probation is reinstated, the court may include
24 any amount of that time as part of the period of probation.

25 3. Any parole and probation officer or any peace officer with
26 power to arrest may arrest a probationer without a warrant, or may
27 deputize any other officer with power to arrest to do so by giving
28 him a written statement setting forth that the probationer has, in the
29 judgment of the parole and probation officer, violated the conditions
30 of probation. Except as otherwise provided in subsection 4, the
31 parole and probation officer, or the peace officer, after making an
32 arrest shall present to the detaining authorities, if any, a statement of
33 the charges against the probationer. The parole and probation officer
34 shall at once notify the court which granted probation of the arrest
35 and detention or residential confinement of the probationer and shall
36 submit a report in writing showing in what manner the probationer
37 has violated the conditions of probation.

38 4. A parole and probation officer or a peace officer may
39 immediately release from custody without any further proceedings
40 any person he arrests without a warrant for violating a condition of
41 probation if the parole and probation officer or peace officer
42 determines that there is no probable cause to believe that the person
43 violated the condition of probation.



Sec. 3. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

4. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located ~~[, regardless of whether]~~ *if* the acts or conduct constituting the violation took place ~~[, in whole or in part, within or outside that county or within or]~~ outside this State. *If the acts or conduct constituting the violation took place in this State, the violation must be prosecuted in the county in which the violation occurred.*

5. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or



- 1 (7) The forcible or unlawful entry of a home, building,
- 2 structure or vehicle in which a person is present.
- 3 (b) “Minor violation” means a violation that does not constitute
- 4 a major violation.

